

Appl. No. : 10/699,589
Filed : October 31, 2003

REMARKS

Prior to entry of the foregoing amendments, Claims 1 through 68 stand pending in the present case. In the Office Action, Claims 24 through 28 were allowed, and Claims 5 and 56 were objected to. Claims 1 through 4, 6 through 23, and 29 through 68 stand rejected.

Applicants respectfully disagree with the Examiner concerning the propriety of the outstanding rejections. However, in view of the After Final status of this application, and in order to place the remaining claims in condition for allowance, Applicants have not addressed the merits of the rejections in this response. Applicants may pursue the rejected claims in one or more continuing applications.

In the present amendment, Claim 1 has been amended to incorporate the recitations of dependent Claim 5. Dependent Claim 5 has been cancelled. Claims 1 through 4 and 6 through 23 should therefore be in condition for allowance.

Claims 29 through 49 have been cancelled without prejudice, to facilitate allowance of the present application. Applicants may pursue these or similar claims in one or more continuing applications.

Claim 50 has been amended to include the limitations of dependent Claims 54, 55 and 56. Dependent Claims 54, 55 and 56 have been cancelled. As such, Claims 50 through 53 and 57 through 68 should be in condition for allowance.

New Claims 69 through 84 have been added. Independent Claim 69 is similar in scope to Claim 50, as amended, with the exception of the shape of the tissue anchor once deployed on the serosal side of the tissue wall. Written description support for the transverse bend to resist pullout of the anchor may be found, for example, in Applicants' publication US 2004/0148034 A1 at paragraph 168 lines 19-21 and also Figure 6C. Applicants respectfully submit that new independent Claim 69 is therefore allowable for the same reasons as independent Claim 50 as amended herein.

Dependent Claims 70 through 84 depend either directly or indirectly from new independent Claim 69, and are believed to be allowable for that reason. New Claims 70 through 84 correspond to claims within the previous set of Claims 51 through 68, and no new matter is believed to have been added by any of the forgoing amendments.

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In view of the foregoing, Applicants respectfully submit that Claims 1 through 4, 6 through 28, 50 through 53 and 57 through 84 are in condition for allowance.

CONCLUSION

Applicants respectfully submit that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. If, however, any questions remain, the Examiner is cordially invited to contact the undersigned so that any such matter may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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